

**IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

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**NOV 18 2005**

**PATENT APPLICATION**

Applicant(s): **John S. Hendricks**  
Serial No.: **09/321,569**  
Examiner: **Lonsberry, Hunter B.**  
Filed: **May 28, 1999** Group Art Unit: **2611**  
Confirmation #: **6672** Case: **5211 (SEDN/5211)**  
Title: **METHOD AND APPARATUS FOR INTERACTIVE PROGRAM  
SUGGESTION**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

<p style="text-align: center;"><b>CERTIFICATE OF MAILING OR TRANSMISSION</b></p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or being facsimile transmitted to the USPTO, on the date indicated below.</p> <p><u>11-18-05</u> Date</p> <p><u>C. Wilson</u> C. Wilson</p>
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S I R:

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE  
AND  
STATEMENT OF THE SUBSTANCE OF AN INTERVIEW**

In response to the Notice of Allowance mailed October 5, 2005, and the Interview Summary mailed October 18, 2005, please consider the above-identified patent application as follows.

The Commissioner is authorized to charge any fees due, including extension of time and excess claim fees, to counsel's Deposit Account No. 20-0782/SEDN/5211.

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### **Comments on Statement of Reasons for Allowance**

The Applicants respectfully thank the Examiner for the Notice of Allowability mailed on October 5, 2005. Regarding the reasons for allowance recited by the Examiner in the Notice of Allowability, the Applicants respectfully note that the present Application is allowable for the specific language contained in each of the independent claims as presented in the response filed on September 16, 2005, and not necessarily for the paraphrased language used by the Examiner on page 2 of the Notice of Allowability.

Also, the Applicants note that the Examiner has variously listed the allowed claims as either "1, 3-16, 18-24, 26-28, 34-41, 50-52, 56-58, 61, 63-65, 67-73, 76-78, 87-89 and 94" (page 1 of the Notice of Allowability) and "1, 3-15, 16, 18-24, 26-28, 34-41, 50-52, 56-58, 61, 63-65, 67-73, 76-78, 87-89 and 94" (page 2 of the Notice of Allowability). However the Applicants note that claim 15 was cancelled in the response filed October 8, 2004, and thus the list of allowed claims includes claims 1, 3-14, 16, 18-24, 26-28, 34-41, 50-52, 56-58, 61, 63-65, 67-73, 76-78, 87-89 and 94.

Furthermore, the Examiner alleges on page 2 of the Notice of Allowability:

"The terminal disclaimer filed on 9/18/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 12/2/2010 has been reviewed and is accepted."

However, the Applicants note that the terminal disclaimer filed on September 16, 2005, does not contain the date "12/2/2010". The Applicants believe that 12/2/2010 is not the correct expiration date of U.S. Patent No. 5,798,785. Therefore, the terminal portion of any patent granted on the present application which would extend beyond 12/2/2010 is not what is disclaimed. Instead, what is agreed to is what is precisely stated in the terminal disclaimer (emphasis added and changed below):

"The owner\*, Sedna Patent Services, LLC, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 5,798,785 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are

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commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns."

Thus, what is disclaimed is the terminal part of the statutory term of any patent granted on the present application which would extend beyond the term of U.S. Patent No. 5,798,785. There is no date explicitly included in the terminal disclaimer, instead the terminal disclaimer simply states "the expiration date of the full statutory term prior patent No. 5,798,785 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer." Thus, what is disclaimed is the terminal part of the statutory term of any patent granted on the present application which would extend beyond the correct expiration date of U.S. Patent No. 5,798,785.

#### **Statement of Substance of Interview**

This communication is also intended as a statement of the substance of an interview, held on October 11, 2005, between Examiner Hunter B. Lonsberry, from the USPTO, and Stephen Guzzi, representative of the Applicants.

Applicants' representative wishes to thank the Examiner for the courtesies extended during the interview.

During the interview, Examiner Lonsberry and Applicants' representative discussed the 12/2/2010 expiration date alleged on page 2 of the Notice of Allowability mailed on October 5, 2005. Applicants' representative indicated during the interview that this date does not appear to be the correct expiration date of U.S. Patent No. 5,798,785. Applicants' representative also indicated that he would file a paper asserting that 12/2/2010 is not the correct expiration date of U.S. Patent No. 5,798,785.

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**Conclusion**

If the Examiner believes that there are any unresolved issues, it is respectfully requested that the Examiner telephone Stephen Guzzi at (732) 383-1405 or Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

h/lr/as

E J Wall  
Eamon J. Wall, Attorney  
Reg. No. 39,414  
(732) 530-9404

PATTERSON & SHERIDAN, LLP  
Attorneys at Law  
595 Shrewsbury Avenue, Suite 100  
Shrewsbury, NJ 07702